

## HB 5338 & 5341

### Statement/Facts in Support:

From fiscal year 2006 to 2013, DHS experienced a 271% increase (849 in 2006; 2299 in 2013) in the number of subpoenas requesting copies of client records processed annually<sup>1</sup>. Conservatively, we estimate 35-40% of those subpoenas only request records authored or prepared by entities other than DHS. These client records include those prepared by doctors, hospitals, other medical facilities, psychologists, psychiatrists, substance abuse laboratories and treatment centers, educational facilities, employers, law enforcement, etc. These are not DHS records.

Over the last half decade, the legal community has discovered the convenience of requesting all of these various records from DHS through their subpoena power. DHS has become a repository – one stop shopping – for records needed for litigation ranging from domestic disputes over custody, parenting time and support to personal injury and social security disability cases. Rather than having to subpoena each authoring party, the attorneys merely subpoena DHS.

The responsibility for processing these subpoenas falls to the custodians of the records. The custodians of these records are field services staff – eligibility workers, child protective services workers and adult services workers. These workers are responsible for providing the most crucial services to Michigan's citizens and they are already taxed with heavy case loads. Processing subpoenas consumes valuable field services resources across DHS. Each Subpoena requires the custodian to pull and review case files, redact sensitive information, copy the records and send those responsive records to the requesting party.

To remedy this situation, amendments to Michigan's Child Protection Law and Social Welfare Act, modeled after a Federal regulation restricting the release of these types of records<sup>2</sup> under the Rehabilitation Act of 1973, 29 U.S.C. 701-752, have been submitted for your consideration.

<sup>1</sup> This is a low estimate because only subpoenas routed through DHS Legal Services are tracked.

<sup>2</sup> If personal information has been obtained from another agency or organization, it may be released only by, or under the conditions established by, the other agency or organization. 34 CFR 361.38(c)(3)